



“Creating a Nation”: The Declaration of Independence and the Nation Anachronism

Joshua Mawhorter • *Mises Wire* • 29 mai 2026

“Four score and seven years ago our fathers brought forth on this continent, a new nation,. . .”—Abraham Lincoln, [“The Gettysburg Address”](#) (November 19, 1863)

“I pledge allegiance to my Flag and the Republic for which it stands, one Nation, indivisible, with liberty and justice for all.”—Francis Bellamy, [The Pledge of Allegiance](#) (September 8, 1892)

“We, therefore, the Representatives of the united States of America, in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the Name, and by Authority of the good People of these Colonies, solemnly publish and declare, That these United Colonies are, and of Right ought to be Free and Independent States;. . .”—*Declaration of Independence* (July 4, 1776)

As we quickly approach July 4, 2026, this year marks the 250th anniversary of the official completion and presentation of the Declaration of Independence on July 4, 1776. As Americans celebrate, it will be common to hear that we are celebrating the birth of our

American *nation*. More correctly and crucially, however, a nation was *not* created on July 4, 1776, rather it was a joint act of secession by which several colonies declared themselves to be independent states.

Viewing the Declaration of Independence as the act that created one consolidated American nation is a common historical anachronism, which projects a later nationalist understanding backward onto the founding era. The Declaration did not legally or politically create a singular consolidated nation-state in the later Lincolnian or post-Civil War sense. (This is not to deny that there *was* already an emerging American identity by 1776 and “nation” in the eighteenth century could be used more loosely than the later centralized-national-state meaning).

For example, below is a picture of a page from a textbook that I took several years ago that reflects this language:



Figure #1—Creating a Nation Textbook

This distinction may seem pedantic and the error may seem trivial, but it did not take long for different views regarding the Declaration of Independence, the later ratification of the Constitution, and the nature of the later federal Union to have deadly consequences.

From the Articles to the Constitution: Steps Toward Centralization

The trajectory from American independence to federal constitutional government is not a story of progress toward liberty, but rather one of progressive consolidation of power by centralizing elites. In other words, a radical revolution toward liberty followed by a conservative [counter-revolution](#) toward consolidation.

The common portrayal of the post-Revolutionary period under the Articles of Confederation as a time of [near-chaos](#) requiring greater national control is increasingly viewed by historians as [exaggerated](#) and heavily shaped by Federalist political rhetoric.

There were real problems under the Articles—interstate tariffs, war debts, currency instability, weak treaty enforcement, and often-misunderstood events like [Shays's Rebellion](#), but several of these issues were a matter of perspective. Many scholars argue these problems were selectively emphasized by nationalists, such as Alexander Hamilton and James Madison, to justify constitutional consolidation. Progressive and nationalist historians often portrayed the Articles period as a failed experiment in decentralized government, but more recent scholars have argued the Confederation government was more functional and stable than traditionally depicted.

In *Conceived in Liberty*, Rothbard [provides](#) a different perspective,

The most important political fact of the years after independence was the movement toward a formal confederation by the revolutionary states of America. The radicals were scarcely enthusiastic about creating any sort of permanent central government; but their innate distrust of all government, especially large central government necessarily removed from the checks by the people, was partially neutralized by their overriding desire to win the war, although the war would be virtually won by the time confederation was finally achieved. The war was fought and won by the states informally but effectively united in a Continental Congress; fundamental decisions, such as independence, had to be ratified by every state.

In *The Articles of Confederation: An Interpretation of the Social-Constitutional History of the American Revolution, 1774-1781* (p. 163), Merrill Jensen similarly [explains](#) further,

The conservatives who had opposed the Revolution and who went along with it only when they saw no alternatives, as well as many who were not opposed to independence, wanted supreme political authority placed in a central government which could exercise a coercive power over the states and their citizens. . . . They valued the British connection for the very definite advantages it gave the ruling

classes of the colonies. When faced with the fact of independence, they demanded the creation of a government which would in some way function as a bulwark of conservative interests: in other words, as a substitute for the British government.

Rothbard's [*Conceived in Liberty*](#)—particularly [volume 5](#) on the Constitution—elaborates on this process. Patrick Newman's *Cronyism*—particularly [chapter 3](#)—also further addresses this topic. This author has also [indicated that](#) the American colonies—largely by conducting the war for independence within a statist paradigm, operating under a Continental Congress—created and responded to conditions during the war and afterward that led to greater centralization. Additionally, all along the way, there were also prominent voices calling for more centralization to win the war and more centralization to deal with the aftermath of the war. This eventually led to a huge step of centralization, often presented as a progressive step toward liberty—the Philadelphia Convention and the Constitution.

While the misnamed “Anti-Federalists,” the Democratic-Republicans, and other fellow travelers heroically pushed for the Bill of Rights, strategically employed a strict constructionist interpretation of the Constitution to limit the US government, took advantage of the fact of strong federalism to limit national power, and even sometimes argued the legitimacy of nullification and secession, they could not ultimately overcome a centralizing Constitution, vague constitutional clauses, an expansionist Supreme Court, the common temptation to simultaneously utilize and expand federal power to achieve desired ends, a federal apparatus equipped with legal powers that would inevitably expand, and a war of unification.

National Theory vs. Compact Theory

Following the ratification of the Constitution by the states, there emerged two plausible theories of the Constitution and the nature of the Union—national theory and compact theory. While I firmly favor compact theory and think a stronger logical and historical case can be made for it, I will attempt to fairly and accurately summarize both national theory and compact theory.

National Theory: The “Union” of the American People—inchoate before and during the Revolution—caused the several states to join together permanently in acceptance of one national government as

the final political authority. The ratification of the Constitution was the necessary completion of the Revolution, and was the expression of the will of the entire American People who expressed that will through delegates at state conventions of the People, not state legislatures.

Just as the Declaration declared that legitimate government must have the “[consent of the governed](#),” the ratification of the Constitution concretely demonstrated that consent. Since this was undertaken by the American People, and the national-federal government represents them all, the national-federal government is vested with the highest authority over individual state governments, that is, ultimate national supremacy. “[We the People](#)” became the foundation of sovereignty.

In this theory, objection to or rejection of the policies of the national-federal government is rejection of the democratic “consent of the governed,” that is, rejection of the will of the American People, such that acts of nullification and secession are rebellion—a threat to the very existence of free, democratic government itself! Hence, Lincoln could [claim](#) at Gettysburg—using the Declaration of Independence—that the Civil War was ultimately intended to guarantee “that government of the people, by the people, and for the people, shall not perish from the earth.”

Compact Theory: Independent, self-governing, and [sovereign](#) states—identifying themselves as *states* just like the sovereign political *states* of Great Britain or France—declared independence and joined in a voluntary alliance, league, team, or confederacy to win the war and sought to continue the arrangement after finally achieving their independence. Following this, they voluntarily formalized a limited Union between them, defined by a written constitution. These actions created a federal—not national—government assigned to certain, limited tasks on behalf of all the states.

The federal government is the *creature*, not the master, of the states, therefore, it only has authority in the specifically designated areas spelled out in the *written* Constitution. (Note: the British had an unwritten constitution, and this allowed governmental interpretations in favor of its own power—a major issue in the American Revolution).

Within this theory, nullification—state rejection of unconstitutional federal laws—is obviously valid and secession is simply an exit from an arrangement voluntarily joined by a sovereign state. Just as these states declared independence in the Declaration of Independence and

voluntarily joined through ratification of the Constitution, they could likewise choose to unjoin.

A Review of the Theories

Logically and historically, there is much to commend compact theory over national theory. Logically, the Union *cannot* precede the states—there cannot be a union of things if the things to be united don't already exist. Historically, the states declared independence independently, a true centralized federal government—let alone the later constitutional Union—did not yet exist, and the states had to join the later constitutional Union via ratification. While there were justifications of national supremacy prior to the Civil War, federalism was also strong, and nullification and secession were discussed throughout the antebellum period.

This is contrary to Lincoln's imaginary Union which involved [this anachronism](#): "The Union is much older than the Constitution." Lincoln masterfully reinterpreted the American founding through a nationalist lens, treating the Declaration of Independence—a document announcing political separation—as a statement of perpetual national unity, and appealing to a pre-constitutional "Union" in order to deny the legitimacy of secession from the constitutional Union itself. In doing so, he portrayed the suppression of secession not as coercion against withdrawing states, but as the preservation of an indivisible nation dedicated to liberty and self-government.

Against the compact theory, however—while it is certainly defensible and, in my view, preferable—it could be fairly argued that such a view is naive. In fact, Rothbard himself (along with [Patrick Newman](#))—given his views regarding the Constitution as a step toward centralization of power and nationalization—might agree. Certainly Lysander Spooner [made](#) similar points.

After the Constitution was finished and signed by 39 of the original 55 delegates on September 17, 1787, it still had to go to the states for ratification. Instead of being sent to the elected state governments, special state conventions were to be established for the purposes of voting to ratify or reject the new Constitution and its government. In other words, the men at the Philadelphia Convention devised a system which largely bypassed the elected state republican governments. In doing so, the Constitution and its federal government could be ratified by comparatively few delegates—a super-minority of the states and the entire American people. Further, even if we grant this method of

ratification as legitimate, it does not follow that generations of individuals living afterward consented to the Constitution. The consent of small minorities of yesteryear are taken to be the binding consent of all the American people for all time.

Given the above, plus the vague clauses in the Constitution that allowed for interpretive expansion, are we to believe that the Constitution was simply intended to be a voluntary compact between states with a federal government limited by the Constitution? The concern of the “Anti-Federalists” (i.e., anti-ratificationists) was that the Constitution was a betrayal of the American Revolution by surrendering state independence and power to an American central government. It could be fairly [argued](#) that the compact theory—reasonable, justified, and noble as it might be—was more of a strategic interpretation to limit the power of the American state than the original intention of the Constitution.

Lincoln famously [argued](#) that the Union could not remain permanently half slave and half free. (Of course, while slavery played its role as a cause of secession, secession itself was the main cause of the war, especially noting that certain slave states remained loyal to the Union and were virtually unmolested throughout the war). More fundamentally, however, the United States could not indefinitely remain suspended between two incompatible political theories: a confederated republic of sovereign states united by compact, and a consolidated nation-state claiming indivisible sovereignty. Ultimately, one had to win over the other.

Both sides of the Civil War sincerely believed they were fighting to preserve the system of the Founding Fathers. This depended on their presuppositions concerning the nature of the Union. Each side viewed itself as saving the Union created by the Founders, and each side viewed the other as destroying the Union created by the Founders. In fact, the Declaration of Independence—a declaration of secession—was [used](#) to justify a war of unification that crushed secession. This was because the Declaration was reinterpreted as creating a nation.

Conclusion

Arguably the Constitution was ratified as a voluntary compact between the American states and eventually evolved into a nation, arguably the Constitution itself created a nation, arguably the Constitution started the United States on a trajectory to become a nation, and arguably the Civil War created a nation or completed the

process of nationalization, but the Declaration of Independence did *not* create a nation.

Popular historian Paul Johnson [argued](#) in his *A History of the American People* that secession was “unconstitutional,” however, he also writes with care and sympathy, and [states](#) the following,

The Civil War, in which are included the causes and consequences, constitutes the central event in American history. It is also America’s most characteristic event which brings out all that the United States is, and is not. *It made America a nation, which it was not so before.* For America, as we have seen, was not prescriptive, its people forged together by a forgotten process in the darkness of prehistory, emerging from it already a nation by the time it could record its own doings. It was, rather, an artificial state or series of states, bound together by negotiated agreements and compacts, charters and covenants. . . . *Their contract to become Americans—the Declaration of Independence—did not in itself make them a nation.* On the contrary; *the very word “nation” was [cut from it](#)*—the Southerners did not like the word. Significantly it was John Marshall, the supreme federalist, the legal ideologist of federalism, who first asserted in 1821 that America was a nation. It is true that Washington had used the word in his Farewell Address, but elliptically, and it was no doubt inserted by Hamilton, the other ideologue of federalism.

Rather than speaking of the United States nation-state as being “born” or “created” at a single moment in 1776, it is more historically accurate to understand the American nation-state as developing gradually through successive stages of centralization and consolidation. Sectional factions increasingly sought to wield federal power to achieve political and economic ends, while constitutional disputes over sovereignty remained unresolved. Ultimately, the process culminated in a war of unification that decisively established national supremacy over the states by force. From that point forward, further centralization—though gradual—became largely inevitable. The Declaration of Independence itself, however, was not an attempt to create a consolidated nation-state, but a joint act of secession by distinct colonies declaring themselves to be free and independent states.



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